

IV. AMENDMENTS TO THE DRAWINGS

--- Replacement and annotated mark-up drawing sheets for amended figures showing the amended figures, if any, are attached at the Appendix hereto. Each figure is in compliance with 37 C.F.R. § 1.84. An explanation of the changes, if any, is set forth below in this “Amendments to the Drawings” section. Replacement drawing sheets are identified in the top margin as “Replacement Sheet.” Any replacement drawing sheet including amended figures includes all of the figures appearing on the immediate prior version of the sheet. Any annotated drawing sheets, if the same are required by the Examiner, are identified in the top margin as “Annotated Marked-Up Drawings.” Any deleted figure is noted by an instruction to delete the figure. Any corresponding amendment to the specification necessary to be made because of an amendment to the drawings in this section is made in the corresponding “Amendments to Specification” section.

- THE DRAWINGS OF THE PATENT IS HEREBY AMENDED AS SET FORTH BELOW:
 - *No Drawings are Present in this Application*
 - *Attachments: None*

V. REMARKS/ARGUMENTS

- STATUS OF THE CLAIMS

Claims 1, 5, 14, 15, 18 - 20 are pending in this application. Claims 1, 5, 14, and 15 are currently amended. Claims 16 and 17 are cancelled. Claims 18 - 20 are new claims.

- OBJECTIONS

- OBJECTIONS TO THE SPECIFICATION

- Examiner's position

The Examiner objects to the Specification under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. The Examiner states that the new material which is not supported by the original disclosure is as follows: a low-gluten wafer *stock mixture*.

- Applicants' Response

Claims 1, 5, 14, and 15 have been amended. The term "stock" has been removed, and replaced by "pre-cooked." The term "pre-cooked mixture" finds support in the specification, among others, on page 3, line 12 and page 6 line, 18.

- OBJECTIONS TO CLAIMS

No objections have been made to the claims by the Examiner.

- REJECTIONS

- REJECTION UNDER 35 U.S.C. §112, Second Paragraph

- Examiner's position

The Examiner rejected claims 1, 5, 14 – 17 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. The Examiner states on page 2 of the Office Action that “It is not clear how the “stock mixture” as it exists can contain water at the recited temperature.”

Furthermore, with regard to claims 16 and 17, he states that these claims are missing essential subject matter, that it is not clear as to what essential properties are required by limitations of claims 16 and 17, and that the limitations are not enabling.

- Applicants’ Response

Applicants respectfully traverse the rejection of claims 1, 5, 14, and 15. Regarding claims 1, 5, 14, and 15, in response to the Examiner’s question of how the “stock mixture” as it exists can contain water at the recited temperature, the Applicants respectfully point out first of all that the amended claims now recite “pre-cooked mixture” in place of “stock mixture”, a term that is fully supported by the specification among others, on page 3, line 12 and page 6 line, 18.

Furthermore, as for such a pre-cooked mixture existing at the temperature recited, the Applicants respectfully point out that this mixture need not exist for any length of time with the water being at the claimed temperature. It is only during production of this mixture that it contains water at this temperature, i.e., water at this temperature is added to the mixture of wheat starch and pre-gelatinized wheat starch. This is made clear in the specification on page 5, lines 13 – 24 where it is stated that “The pre-cooked mixture may *start* with about 1.0 part wheat starch and about 1.0 part pre-gelatinized wheat starch...The pre-cooked mixture may also include about 2.0 parts of water having a temperature between about room temperature to about 212 degrees Fahrenheit, where the water is combined with the substantially homogenous mixture of wheat starch and pre-gelatinized wheat starch...”

As for claims 16 and 17, these claims have been cancelled, and therefore the rejection of these claims has been rendered moot.

REJECTION UNDER 35 U.S.C. §103(a)

Applicants herein address the Examiner’s 103(a) rejections in respect to the claims as set forth in the Examiner’s Office Action.

- Examiner’s Position

Claims 1, 5, 14 - 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wernecke (DE 1927394). The Examiner states that Wernecke discloses a bread mix for low-protein diets. Wernecke also discloses a low gluten product that contains maximum 0.3% by weight gluten (Abstract). The Examiner further states that Wernecke also discloses a bread product comprising wheat starch, pre-gelatinized wheat starch, and water (Abstract), and that Wernecke discloses low-gluten bread products designed for people suffering from Celiac disease. Furthermore, the Examiner states that Wernecke discloses that pre-gelatinized wheat starch serves as a structure improving component. This reference also discloses baking temperature of 400F.

- *Applicants' Response*

Independent Claim 1 in Respect of the Wernecke (DE 1927394) reference:

Applicants respectfully traverse the Examiner's rejection of claims 1, 5, 14, and 15 with respect to the Wernecke (DE 1927394) reference. In clear distinction to the reference, independent claim 1, as amended herein, recites a pre-cooked mixture that consists of *only* about 50% of a mixture of wheat starch and pre-gelatinized wheat starch, and about 50% of water at a temperature of between about 100 degrees Fahrenheit and about 150 degrees Fahrenheit. No other ingredients are present.

The applicants respectfully submit that the reference cited by the Examiner does not disclose a mixture composed *only* of these ingredients, but one that has additional ingredients. The mix of in this reference includes additional ingredients such as fat, sugar tapioca starch, methylcellulose, or carboxymethylcellulose (see Abstract of the Wernecke DE 1927394 reference). In addition, contrary to the Examiner's opinion, Wernecke (DE 1927394) reference does not mention that the mixture contains water, i.e., it is simply a dry mixture to which water may be added at some later time.

Furthermore, from the reference cited by the Examiner (Wernecke, DE 1927394), it is obvious that proportion of the pregelatinised wheat starch is clearly less than 10% ("...with added 10% rel. their total weight in a structure improver composed of pectin, pregelatinised

waxy maize, pregelatinised wheat starch, or tapioca starch, methylcellulose or carboxymethylcellulose”).

For the reason described above, the Applicants respectfully submit that the stock mixture as set forth in independent claim 1 is not disclosed in the prior art of record (Wernecké (DE 1927394). Accordingly, reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. paragraph 103(a) is respectfully requested.

Therefore the Applicants respectfully submit that independent claim 1 is in condition for allowance.

- Dependent claims 5, 14 - 17

The Examiner is respectfully directed to note that dependent claims 5, 14, and 15 set forth additional novel features of the present invention. These claims are in condition for allowance due to their dependency from allowable independent claim, as well as for the additional novel limitations set forth therein.

Claims 16 and 17 have been cancelled, and therefore the rejection of these claims have been rendered moot.

CONCLUSION TO REMARKS

Applicants assert that this response is fully responsive to the Examiner's Office Action dated September 24, 2007. Applicants respectfully seek early allowance of the pending claims.

Dated: January 24, 2008

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'John Scott Winterle', is written over a horizontal line.

John Scott Winterle, PhD
Reg. No. 57,276
Kelley Drye & Warren LLP
Intellectual Property Department
400 Atlantic Street
Stamford, CT 06901-3512

Direct Tel.: 203-351-8051
Facsimile: 203-327-2669
e-mail: jwinterle@kelleydrye.com

VI. APPENDIX

- *No Appendix Included in this Response.*